

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

OTMAR PETER WITTINE,

Plaintiff,

vs.

JOSEPH ZAVATSKI,

Defendant.

CV 21-93-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on Wittine's Complaint under the screening process imposed under 28 U.S.C. § 1915. (Doc. 6). The Magistrate recommended the matter be dismissed with prejudice because Wittine failed to state any claims upon which relief could be granted. (Doc. 6 at 7-8).


Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendation. No objections were filed but Wittine filed a notice with the Court that he wished to dismiss the action. (Doc. 8). When neither party objects, this Court reviews the Magistrate's Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm

conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find that the Magistrate committed clear error.

IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 6) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that the Complaint (Doc. 2) is DISMISSED with prejudice and without leave to amend. Any claims under state law are DISMISSED without prejudice to refiling in state court. The Court certifies, pursuant to Federal Rule of Appellate Procedure 24(a)(4)(B), that any appeal of this disposition would not be taken in good faith.

DATED this 23rd day of August, 2022.


SUSAN P. WATTERS
United States District Judge